

County of Loudoun
Department of Planning
MEMORANDUM

DATE: March 2, 2011

TO: Loudoun County Planning Commission

FROM: Stephen Gardner, Project Manager
Julie Pastor, Director

SUBJECT: **March 9, 2011 Planning Commission Work Session**
Dulles Town Center
ZMAP 2007-0001, SPEX 2008-0047 & SPEX 2008-0048

BACKGROUND:

The Planning Commission held a public hearing on this application on September 17, 2009; no members of the public spoke for or against the application. It was indicated at the meeting that further consideration of this application would be in conjunction with the Parc Dulles II (ZMAP 2002-0017, SPEX 2008-0026 & SPEX 2008-0027) application. To allow time for further consideration, the Planning Commission voted 8-0-1 (Brodrick – absent) to forward the application to Work Session to be combined with the Parc Dulles II application following that Public Hearing of November 19, 2009.

The Planning Commission conducted Work Sessions on the two combined applications on July 21, 2010, September 22, 2010, and January 12, 2011. The following memorandum constitutes an outline of the outstanding issues, a synopsis of the Commission discussion, and a current status of each

ISSUE STATUS:

The following issues were identified by staff as outstanding. The Planning Commission discussion applicable to each is noted as well as a current status.

Issue 1: **The percentage of public and civic uses proposed for both the TC and the OP Land Bays are not in conformance with that anticipated by the Land Use Mix noted in the Revised General Plan for the Urban Center and areas designated Keynote Employment.**

PC Discussion: The Commission acknowledged the cumulative total of land area to be provided for both civic and open space uses exceeds the

cumulative total anticipated for the two. The Commission further noted that the utility of certain open space areas would function as civic, though it would not meet the technical definition of such. Because of this conflict between the definition and the function of certain uses, the Commission recommended the definition of civic be reviewed in the context of the Route 28 Corridor Comprehensive Plan Amendment (CPAM). That being said, the Commission also encouraged the Applicant to explore creative solutions to the deficiency of civic, such as incubator space, a cash-in-lieu contribution as opposed to square footage, and/or integrating uses within office buildings.

Current Status: No additional commitments regarding civic space have been provided, and the amount of civic uses proposed remains unchanged at six (6) percent per the modification. Staff notes the handicap accessible tot lot currently existing in Hadley's Park has now been included as part of the calculation. In addition, language providing for square footage to be allocated for use as a public safety facility has been deleted at the request of Staff as that proposed use did not meet the standards established by the County. No off-setting commitment has been provided as an alternative.

The percentage of civic uses provided is deficient when considering that anticipated by the Revised General Plan and the Revised 1993 Zoning Ordinance, both of which anticipate a minimum of ten (10) percent of the land area. In addition, civic uses are proposed that are not consistent with the definition per the Revised 1993 Zoning Ordinance, specifically the afore-mentioned tot lot and the civic plaza. As a solution to this issue, Staff recommends designating a specific square footage of uses that would be designated as civic in the Proffers along with standards for the allocation and timing of such. This would allow flexibility and would allow the final determination regarding use and location to be at the discretion of the Applicant.

Issue 2: Land Bay CC-1 is not in conformance with the Destination Retail policies.

PC Discussion: The consensus of the Commission was that non-destination retail uses are appropriate within this land bay. The Commission concluded that destination retail uses should be located within the Dulles Town Circle ring road, and Land Bay CC-1 should be a transition area to the Urban Core. There was also general consensus among the Commission that the existing pad development pattern characteristic of property to the south is not appropriate, and as such, design commitments specific to this land bay are critical. Finally, the

Commission suggested alternative uses for the land bay, including a hotel and/or civic uses.

Current Status: No changes relative to the land use mix has been made by the Applicant to Land Bay CC-1. The application continues to provide limited assurance that the intent of destination retail (i.e. retail centers ranging from 250,000 to 1.5 million square feet or free-standing retail larger than 50,000 square feet) will be realized.

Issue 3: **A single use residential Land Bay (i.e. TC-3) adjacent to Route 7 is not consistent with the Plan's vision for a mixed-use, vertically integrated community.**

PC Discussion: This issue was discussed at the July 21, 2010 meeting in conjunction with the introduction of residential as part of the Parc Dulles II application and the related issue of conformance with the Keynote Employment policy. A straw vote was taken by the Commission indicating support for the residential Land Bay TC-3, though it should be noted that there was no consensus among the Commission. On one hand, Commissioners recognized the existence of significant employment uses in the area and viewed the residential within the context of the broader area as a component of a mixed-use environment. On the other hand, Commissioners indicated the residential should be better integrated, and the location of this land bay immediately adjacent to Route 7 should be reserved, at least in part, for employment uses. The Commission concluded that if residential uses are retained, additional setbacks and buffering may be appropriate. School impacts were also discussed.

Current Status: The land use mix associated with this land bay remains unchanged and is predominantly residential. Subsequent to the July 21, 2010 meeting, the building setback along Route 7 was increased from 50-feet to 150-feet and the buffer along City Center Boulevard was enhanced. Currently, Proffer I.B. has been inserted and provides for more stringent air quality standards, noise attenuation, and enhanced buffering along Route 7.

Issue 4: **Phasing commitments should be revised to note that any residential units permitted in vertically integrated buildings above the original 650 units are contingent upon a minimum of 500,000 square feet of non-residential in the PD-TC districts only.**

PC Discussion: The Commission indicated the Urban Center Core is envisioned as an anchor to the entire development, and allowances for additional residential is intended as an incentive to induce development. In like

manner, the Commission noted that a horizontal development pattern with office uses located solely along Route 28 and residential use located solely in the Urban Center is not desirable. Enticements should be provided to encourage mixed-use development within the Core. In conclusion, the Commission directed the Applicant to strike the words "...and/or PD-OP..." from Proffer I.F.3.

Current Status: This proffer has not been revised consistent with the direction of the Planning Commission. The language "...and/or PD-OP..." has been retained and would allow for additional residential uses without the assurance of corresponding office uses within the Urban Center.

Issue 5: **Provide a Capital Facilities Contribution consistent with the Capital Intensity Factors (CIF) adopted by the Board at their July 21, 2009 Business Meeting.**

PC Discussion: The Commission indicated no desire to negotiate the CIF numbers and noted the Public Hearing on this application was conducted after revised numbers were adopted by the Board in July. As such, the Commission directed the Applicant to provide a Capital Facilities contribution of \$23,758 per residential dwelling unit in accordance with the policy and the CIF as adopted by the Board.

Current Status: Proffer III provides for a capital facilities contribution of \$23,758 per residential unit, consistent with Policy. Staff notes that credits of \$10,840,001 have been requested against this contribution as well as an exemption for Unmet Housing Needs Units less than seventy (70) percent Area Median Income (AMI).

Issue 6: **Credits requested to be applied against the capital facilities contribution are not consistent with Board policy. Appraisals and/or documentation quantifying the value should also be submitted.**

PC Discussion: As part of its discussion specific to this item, the Commission discussed the appropriate location for both commuter parking spaces and the Mass Transit Facility as well as the inter-relationships between the two. Specific direction to the Applicant included the following: 1) Remove the \$250,000 credit for the Route 7 Pedestrian Crossing; 2) Specify that a minimum of three hundred (300) spaces will be provided; 3) Clarify credit will only be taken for three hundred (300) spaces and will assume a location at the Route 28 location only; 4) Retain the option to provide spaces at the Mass Transit Facility; 5) Include provisions that the county must approve of any relocation of spaces; and 6) Clarify the language applicable to each.

Current Status: The Proffers have been revised consistent with the Planning Commission direction. Proffers II.C.1 and II.C.2. provide for construction of one hundred (100) spaces and an expansion to two hundred (200) spaces, respectively. Provisions for expansion of the two hundred (200) spaces to three hundred (300) spaces are noted in Proffer II.D.3. This language provides the option for relocation of the spaces, provided a cumulative minimum of three hundred (300) spaces are maintained, to the Mass Transit Facility. Language states the County must approve any such relocation.

In addition, the \$250,000 credit for the Route 7 Pedestrian Crossing and the optional credit for an additional one hundred (100) parking spaces have been removed from Proffer Exhibit G.

Issue 7: A buy-out of the residential uses located within the Route 28 tax District.

PC Discussion: There was no discussion by the Commission as this issue was identified as resolved.

Current Status: Proffer X.A. has been inserted and provides for a buy-out of the Route 28 Tax District.

Issue 8: Board policy anticipates residential applications will include provisions for unmet housing needs across a broad segment of the County's income spectrum from 0 – 100% Area Median Income (AMI).

PC Discussion: Reference was made by the Commission to discussion included as part of the Route 28 Corridor Plan and the Dulles World Center (ZMAP 2008-0018 & SPEX 2010-0008) application. The Commission indicated its comfort with the conclusions noted as part of the Dulles World Center Zoning Map Amendment in which twelve (12) percent of all units would be allocated as Unmet Housing Needs Units and/or Affordable Dwelling Units (ADUs) to be dispersed among the income tiers as follows: Two (2) percent of all units will be allocated for income tiers up to 30% percent AMI; four (4) percent of all units will be allocated for income tiers between 30 and 50% AMI; four (4) percent of all units will be allocated for income tiers between 50 and 70% AMI; and two (2) percent of all units will be allocated for income tiers between 70 and 100% AMI. The Commission directed the Applicant to mirror this commitment but noted flexibility regarding unit size could be retained so as to offset any economic loss incurred.

Current Status: This proffer has not been revised consistent with the direction of the Planning Commission. The Proffers specify twelve (12) percent of all

units shall be either Unmet Housing Needs units or ADUs. However, Proffer I.C. allows the Applicant the option, at their sole discretion, to provide a contribution of \$1,000.00 per residential unit to the Loudoun County Housing Trust Fund in lieu of providing the Unmet Housing Needs Units. In addition, the income tiers specified by the Proffers are inconsistent with that recommended by the Planning Commission in that fewer units are provided at the lower income tiers and a larger percentage of units are provided at the higher income tiers. The following table describes the number of units provided by the Applicant, the percentage distribution among the income tiers, and the number of units that would be provided if the parameters used in the Dulles World Center application were applied here.

Income Tier	Distribution of units by percentage as directed by Planning Commission	Number of Units anticipated as directed by Planning Commission	Applicant's Percentage Distribution of Units Among Income Tiers	Number of Units Provided by Applicant
0 up to 30%	2%	25	1.2%	15*
Above 30% and up to 50%	4%	49	3.6%	44*
Above 50% up to 70%	4%	49	3.6%	44*
Above 70% - 100%	2%	25	3.6%	44*
TOTAL	12%	148	12%	147*

* This table assumes twelve (12) percent of all units will be Unmet Housing Needs Units. It should be noted, however, Affordable Dwelling Units (ADUs) are anticipated in Land Bay TC-3 and would be included as part of the eighty-eight (88) units specified for income levels between 30 – 70% AMI.

Issue 9: **Improvements to a Stormwater Management Pond located in Land Bay OP-2 adjacent to Route 7 should be provided if it is intended to provide BMPs for the site.**

PC Discussion: Discussion from the Commission relative to this issue was limited as the Applicant and Staff presented both sides. The Commission noted that the current system is stressed, and a substandard stormwater management facility is not desirable. The Commission directed Staff and the Applicant to meet and identify various options that would resolve this issue.

Current Status: Proffer Exhibit H has been provided and details improvements proposed to the existing stormwater management pond. In summary, a new micropool will be provided and the existing outflow will be

modified to include an eighteen (18) inch reverse slope entry riser. Effectively, these improvements will prevent the clogging of the outflow, a documented issue to-date, and should provide for a more consistent water level which will facilitate the establishment of vegetation around the perimeter. Proffer IX.D. provides for the submission of a site plan detailing these improvements prior to the first site plan for Land Bays TC-1, TC-2, TC-3, OP-2, and OP-3, or any other land bay that drains to this facility.

These commitments are appreciated; however, Staff recommends the language be amended to state the site plan detailing such improvements shall be approved in conjunction with the first site plan for development in the afore-mentioned land bays. Currently, the submission of a site plan would fulfill this proffer as there is currently no language that states the site plan must be approved. Otherwise, Staff considers this issue resolved.

Issue 10: **Commitments should be made to tree preservation within designated Tree Conservation Areas (TCA).**

PC Discussion: At the September 22, 2010 meeting, the Planning Commission directed the Applicant to provide the standard preservation language applicable to Tree Conservation Areas. At the January 12, 2011 meeting, the Applicant agreed to provide a compliance and verification mechanism to document TCA areas subject to this proffer.

Current Status: Language establishing a minimum tree canopy threshold of eighty (80) percent specific to Tree Conservation Areas was provided prior to the January 12, 2011 Work Session. "Naturalized Planting Areas" were omitted from this requirement and were explicitly excluded by language in Proffer IX.A2.; this language has now been struck. In addition, Proffers IX.A.1, IX.A.2., IX.A.3., IX.A.4, IX.A.5 and IX.B. have been revised to reference both "Tree Conservation Areas" and "Reforestation Planting Areas." As such, this issue is now resolved.

Issue 11: **Mitigation of wetlands should be pursuant to County policy with first preferences within Loudoun County within the same watershed.**

PC Discussion: The Planning Commission noted the value of mitigating wetlands within Loudoun County but recognized Virginia State Law which limits the ability to mandate such through the legislative process. The Commission encouraged the Applicant to include the prioritization sequence as prescribed by Policy which would place mitigation within Loudoun County.

Current Status: Proffer IX.C. has been revised to state that "...any required mitigation of wetland..." areas shall be subject to the prioritization sequence as defined by Policy, which provides preference for sites within Loudoun County. This issue is now resolved.

Issue 12: Shared-use trails along Atlantic Boulevard should be constructed to a minimum width of ten-feet (10').

PC Discussion: At the September 22, 2010 meeting, the Applicant agreed to provide a ten (10) foot trail along the west side of Atlantic Boulevard. At the January 12, 2011 meeting, the Planning Commission acknowledged the recent Board action to relocate the ten (10) foot trail to the east side of Atlantic and include a five (5) foot sidewalk on the west side but noted such action represents a change in policy after the issue was originally considered resolved. As such, the Commission provided no further guidance on this issue, and the Applicant indicated their intent to further the discussion specific to this issue with the Board of Supervisors.

Current Status: Staff cannot consider this issue resolved given the direction of the Board of Supervisors' Transportation and Land Use Committee which recommends a ten (10) foot shared-use trail be located to the east side of Atlantic Boulevard and a five (5) sidewalk be included on the west side. This rationale was based upon the location of pedestrian facilities associated with the Virginia Department of Transportation extension of Atlantic Boulevard to the south and the location of existing environmental features. In addition, the recently adopted Countywide Transportation Plan defines Atlantic Boulevard as a U4M roadway which anticipates a ten (10) foot shared use path and a six (6) foot wide sidewalk. Finally, Staff notes that pedestrian facilities have not been provided north of Century Boulevard along the frontage of Land Bay OP-2. Pedestrian facilities should be provided along the entire property frontage. Staff recommends pedestrian facilities be provided in accordance with the Board direction along the entire frontage of the subject property.

Issue 13: The Traffic Impact Study should be amended to include consideration of medical office and to rectify discrepancies between the development program proposed and that analyzed as well as the orientation of Century Boulevard.

PC Discussion: At the September 22, 2010 meeting, this issue was identified as resolved by Staff. As such, there was no discussion by the Planning Commission. It was noted, however, the Traffic Impact Study

identified the improvements noted in Issue 19 as necessary to accommodate the proposed development program.

Current Status: This issue is resolved.

Issue 14: **Commitments should be made to provide all future improvements for intersections noted in the Traffic Study as necessary to achieve the indicated Level of Service (LOS).**

PC Discussion: At the September 22, 2010 meeting, the Applicant indicated their intent to commit to the various intersection improvements noted in the Traffic Impact Analysis. There was no discussion by the Commission.

Current Status: Proffer II.H.2. has been revised to provide for the construction of improvements at various intersection that include the following: 1) Atlantic Boulevard / Century Boulevard / Majestic Drive; 2) Atlantic Boulevard / Lauren-Sarah Court; 3) Dulles Center Boulevard / Kent Drive; and 4) Nokes Boulevard / Atlantic Boulevard.

These commitments are appreciated but should be further refined as follows: 1) Reference to the Atlantic Boulevard / Jon Jake Court intersection and the Dulles Center Boulevard / Majestic Drive intersection should be removed as those commitments are encompassed in Proffer II.H.1.; 2) Specification of a timing mechanism for improvements to be completed and open to traffic relative to construction on an adjacent parcel; currently only a bonding provision is noted; and 3) Inclusion of a cash-in-lieu provision should those improvements be provided by others. The fore-going will resolve this issue.

Issue 15: **Provide signalization of intersections as warranted.**

PC Discussion: The Commission noted that all of the intersections where signalization has been identified as needed are bounded by property subject to this application, and as such, side street traffic traversing these intersections will be generated by the proposed development program. The Commission concluded that the Applicant should fund the signals in their entirety when warranted. If a signal is not warranted at the time of build-out of adjacent acreage, a pro-rata contribution should be made, commensurate with the percentage of trips generated by the Applicant's development.

Current Status: This proffer has not been revised consistent with the direction of the Planning Commission. Proffer II.H., which previously stated signalization will be provided for "...each of the first five

intersections...," has been revised to state signalization will be provided for "...one of the five intersections..." A warrant analysis for this one traffic signal will be provided at the request of the County until such time as the "...last quadrant of the subject intersection has been developed and occupied..." If warranted during this timeframe, the signal will be installed. If not warranted, a pro-rata share will be provided based on traffic counts.

Though the concept of a fair-share contribution being applicable if the signal is not warranted by the Applicant's development is consistent with the direction of the Planning Commission, the assertion that only one intersection shall be subject to such is not. This language represents a digression from earlier commitments which provided for a partial funding of each signal. Further, the methodology implied with a "pro-rata share...based on traffic counts" is subjective and difficult to quantify. Finally, no timing mechanism is specified for payment of the "pro-rata share."

Issue 16:

Phasing of a commuter parking lot should be revised within the Proffer Statement to provide one hundred (100) spaces immediately and an expansion to two hundred spaces (200) within 120 days following approval of the application.

PC Discussion: The Commission confirmed that there is currently demand for additional commuter parking spaces and further noted that one hundred (100) spaces are owed to the County pursuant to the approved proffers. The Commission noted that credits requested for the spaces will be paid up-front in conjunction with the permitting of residential units, and as such, the spaces should also be provided up-front.

In response to the Applicant's request that the trigger be tied to development on the Property, the Commission directed the Applicant to provide the second one hundred (100) spaces, for a cumulative total of two hundred (200) spaces, at the first zoning permit issued on the Property. The Commission did not indicate any changes to the third one hundred (100) spaces, which would result in a cumulative total of three hundred (300) spaces.

Current Status: Proffer II.C.2. has been revised to state the Applicant will submit a site plan detailing the expansion of the one hundred (100) space commuter parking lot to two hundred (200) spaces prior to issuance of a zoning permit for development on the Property. The trigger for the initial one hundred (100) spaces remains unchanged at 120 days following approval. The Trigger for an expansion of the two hundred (200) space commuter parking lot to three hundred (300) spaces

remains linked to the submission of a Special Exception for the Mass Transit facility, which has been accelerated to either 1,000,000 (if the interim mass transit facility is provided) or 2,000,000 (if the ultimate mass transit facility is provided) square feet of residential and non-residential development.

Additional clarification is needed regarding this proffer. The language states a site plan must be submitted; language stating the Applicant shall diligently pursue approval of this site plan has been deleted. As the language is currently drafted, the submission of the site plan will fulfill this proffer with no corresponding assurance that the spaces will be constructed. The Proffer should be revised to provide a definitive commitment as to when the spaces will be constructed and open to the public.

Issue 17: Phasing of the Mass Transit Facility should be amended to provide construction concurrent with the arrival of Metro Rail.

PC Discussion: As part of its discussion, the Commission recognized the capital cost involved in constructing such a facility. This being said, the Commission encouraged the Applicant to tie the construction to both a residential and a non-residential trigger.

Current Status: In response to the guidance of the Planning Commission, Proffer II.D1. has been revised to provide for construction of the "Ultimate Mass Transit Facility" prior to the issuance of the zoning permit for the either the 1,000,000th or 2,000,000th square foot of combined residential and non-residential development in the PD-TC and/or PD-OP districts, depending upon whether an "Interim" or an "Ultimate" Mass Transit Facility is provided.

Regarding the "Interim Mass Transit Facility," this concept has been introduced by the Applicant as a means to further accelerate the construction of the facility. If constructed, the interim facility will be located immediately adjacent to and north of the Dulles Town Circle ring road and will include bus slips only; the physical structure will not be constructed. At the Applicant's sole option, the interim facility may be provided at the fifth anniversary following approval of this application. If an "Interim Mass Transit Facility" is provided, the "Ultimate Mass Transit Facility" will be provided at the combined 2,000,000th square foot of residential / non-residential development on the Property. If no "Interim Mass Transit Facility" is provided, the "Ultimate Mass Transit Facility" will be provided at the combined 1,000,000th square foot of residential / non-residential development on the Property.

In concept, the provision for an "Interim Mass Transit Facility" is consistent with the direction of the Planning Commission and further accelerates a facility which is needed today. However, the proposed site is not subject to this application, and the proposed use is not permitted under the 1972 Zoning Ordinance unless dedicated to the County for public use. Further, the proposed design does not provide for the required peripheral parking lot landscaping and will result in the intermingling of bus traffic with the through traffic on Dulles Town Circle. In essence, the illustrative as depicted is not desirable, and it may be difficult to implement logistically.

Given the introduction of an alternative location for the Mass Transit Facility, albeit an interim facility, Staff considers this site preferential to the proposed permanent location in Land Bay TC-1 if the logistics of zoning compliance can be remedied. The new location, interior to the larger Dulles Town Center property, is convenient to both the existing mall and the proposed Urban Center. Regardless of whether this site becomes the interim or permanent home of the Mass Transit Facility, the site would need to be publicly dedicated, provisions for pedestrian access across the Ring Road would need to be provided, and conflicts between individual parking stalls, Dulles Town Center traffic, and bus ingress/egress would need to be eliminated.

Issue 18: **A circulator bus service should be provided to facilitate the movement of people between the various uses and to the Mass Transit Facility.**

PC Discussion: There was no consensus among the Planning Commission on this issue. On one hand, the Commission noted the absence of such a service would require the use of automobiles in an environment intended to encourage pedestrian mobility and transit. The Commission suggested implementation of a circulator bus on a trial basis with defined benchmarks to test effectiveness. If the service were determined to be unsuccessful, it would be discontinued. On the other hand and in recognition of the Applicant's argument that the free market dictate whether circulator bus service is provided or not, the Commission suggested the establishment of Transit Demand Management (TDM) strategies, of which, a circulator bus service could be used in combination with other strategies. In this instance, the Applicant would have defined performance criteria but would also have discretion as to how these criteria are met. The Planning Commission did, however, request the distance from one side of the site to the other.

Current Status: The Proffers have not been revised to provide either a circulator bus service or an alternative TDM program. As such, this issue is

unresolved. Clarification on the Planning Commission direction specific to this issue is needed.

Regarding this Commission's question, the distance from the Nokes Boulevard / Route 28 interchange is approximately 0.9 miles. In like manner, the distance from the Century Boulevard / Atlantic Boulevard intersection to the Nokes Boulevard / City Center Boulevard intersection is approximately 0.8 miles. Both of these distances assume a direct route through the mall. Conversely and as perhaps a more realistic indication of an identified pedestrian route, the distance along Dulles Center Boulevard from the intersection with Majestic Drive to the intersection with City Center Boulevard, effectively from one side of the Urban Center to the other, is approximately 0.6 miles. The length of Dulles Center Boulevard from the intersection with Atlantic Boulevard to the intersection with City Center Boulevard is approximately 0.8 miles.

Issue 19: **Provisions allowing for a transfer of square footage between the TC land Bays should be removed from the Proffer Statement or reduced in scope.**

PC Discussion: The Commission did not object to the concept of a density transfer for purposes of flexibility but directed Staff and the Applicant to determine a reasonable percentage of square footage that could be shifted from one land bay to the other.

Current Status: Originally, up to half of the square footage could be transferred between Land Bays TC-1 and TC-2. Staff had suggested this transfer option be limited to no more than twenty-five (25) percent of the square footage in each respective land bay. The table included as part of Proffer I.E.1. was revised subsequent to the September 22, 2011 Work Session to decrease the amount of density that could be transferred from Land Bay TC-2 to Land Bay TC-1 by 100,000 square feet. Currently, a column entitled "Maximum Floor Area If Owners Elect to Transfer Density" has been added. The intent of this column is unclear as it does not address the original concern. Staff reiterates its recommendations that density transfer between land bays be limited to no more than twenty-five (25) of the square footage in that land bay.

Issue 20: **Submit a Proffer Audit which verifies commitments approved as part of ZMAP 1990-0014 have either been fulfilled or included as part this application.**

PC Discussion: There was no discussion by the Commission as this issue was identified as resolved.

Current Status: A Proffer Audit has been submitted. This issue is resolved.

Issue 21: **Staff cannot support six (6) of the modifications of the Revised 1993 Zoning Ordinance.**

PC Discussion: The Commission did not object to the modification reducing the required number of parking spaces applicable to the NRU-CFC parcel, citing the isolated nature of Land Bay OP-2 and reductions in impervious area as justification for the request. In like manner, the Commission did not object to an increase in the lot coverage for the TC land bays as the Urban Center warrants the greater density that would be achieved by such. Finally, the Commission did not object to the decrease in setbacks and the increase in building height for the CC-1 land bay due to the physical constraints of the parcel. The Commission noted, however, design commitments applicable to this area should be enhanced so as not to emulate the pad development pattern currently abutting the perimeter of the Dulles Town Circle ring road.

Current Status: The afore-mentioned modifications have been retained.

Issue 22: **Withdraw a modification of Section 4-205(C)(2), "*Lot Requirements. Yards. Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses,*" as it was not included as part of the Planning Commission Public Hearing legal advertisement.**

PC Discussion: There was no discussion by the Planning Commission specific to this issue.

Current Status: The above-reference modification has not been withdrawn.

Issue 23: **The Proffer Statement and Conditions of Approval have not been approved to legal form.**

PC Discussion: There was no discussion by the Planning Commission specific to this issue.

Current Status: The Conditions of Approval, dated February 15, 2011, are currently under review by Building and Development, Zoning Administration.

New Issue 24: **Provide an Escalation Clause for all monetary contributions that will adjust the value of the contribution for annual inflation.**

PC Discussion: The Commission confirmed from Staff that no other application for Zoning Map Amendment has challenged the policy regarding the escalation clause. As such, the Commission directed the Applicant to provide the Escalation Clause but noted a review of the policy may be appropriate at some point in the future.

Current Status: This is not a new issue per se as it has been discussed repeatedly in conjunction with the Parc Dulles II (ZMAP 2002-0017, SPEX 2008-0026 & SPEX 2008-0027) application. The 2.5% cap on the escalation clause has been struck from the proffers, however, language stating that any escalated cash contribution shall not exceed the per unit cash contributions for multi-family units has been retained. This language is, in effect, a cap which would negate the intent of the escalation clause.

New Issue 25: **The Capital Facilities Contribution is not consistent with Board policy in that exemptions are proposed for unmet housing needs units.**

PC Discussion: Not Applicable.

Current Status: As noted in Issue 6 above, Proffer III. excludes Unmet Housing Needs Units from a capital facilities contribution. Affordable Dwelling Units (ADUs) may be excluded from a capital facilities contribution per policy. The same exemptions are not provided for Unmet Housing Needs units.

STAFF RECOMMENDATION:

Staff cannot support this application at this time. Outstanding issues include: 1) Deficiency in the percentage of civic uses; 2) Land Uses that do not conform with the intent of Destination Retail; 3) Phasing of residential uses; 5) Commitments to Unmet Housing Needs Units; and 6) Mitigation of transportation impacts. Staff recommends the Planning Commission refer the application to a subsequent Work Session for further discussion.

SUGGESTED MOTION:

1. I move that the Planning Commission forward ZMAP 2007-0018, SPEX 2008-0047 and SPEX 2008-0048, Dulles Town Center, to a subsequent Planning Commission Work Session for further discussion.

OR,

2. I move an alternate motion.

ATTACHMENTS:

1. Vicinity Map
2. Conclusions
3. SPEX 2007-0048 Conditions of Approval; dated March 2, 2011
4. SPEX 2007-0047 Conditions of Approval; dated March 2, 2011
5. Construction and Waste Management Referral; dated January 31, 2011
6. Applicant Response Memorandum; dated February 15, 2011
7. Proffer Statement; dated July 28, 2009; revised to February 15, 2011 (Red-Line Version)
8. Proffer Exhibit D-1; dated February 15, 2011
9. Proffer Exhibit D-2; dated February 15, 2011
10. Proffer Exhibit D-3; dated February 15, 2011
11. Proffer Exhibit E; dated January 20, 2011
12. Proffer Exhibit F; dated October 20, 2010
13. Proffer Exhibit G; dated February 15, 2011
14. Proffer Exhibits H; dated January 20, 2010
15. Ultimate Mass Transit Facility Illustrative; dated February 15, 2011
16. Interim Mass Transit Facility Illustrative; dated February 15, 2011
17. Concept Development Plan Plat; dated March 6, 2007; revised to February 15, 2011